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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,015	12/21/2001	Michael D. Kotzin	CS10398	5676
20280	7590	08/25/2005	EXAMINER	
MOTOROLA INC 600 NORTH US HIGHWAY 45 ROOM AS437 LIBERTYVILLE, IL 60048-5343				COULTER, KENNETH R
ART UNIT		PAPER NUMBER		
		2141		

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/037,015	KOTZIN, MICHAEL D.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kenneth R. Coulter	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 May 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 21 December 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |



**DETAILED ACTION*****Response to Amendment***

1. The affidavit filed on 5/23/05 under 37 CFR 1.131 has been considered but is ineffective to overcome the Colsey (U.S. Pat. Pub. No. 2003/0005429) reference.

The evidence submitted is insufficient to establish **diligence** from a date prior to the date of reduction to practice of the Colsey reference to either a constructive reduction to practice or an actual reduction to practice. No evidence was submitted to establish due diligence.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 – 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Colsey (U.S. Pat. Pub. No. 2003/0005429) (EPG With Video Previews).

3.1 Regarding claim 1, Colsey discloses a method for obtaining content for a wireless device (Fig. 1; p. 2, paragraph 20 "The **transmission medium 20** may include, for example, ... **a satellite communication system**, a radio frequency (RF) system, a microwave system, **other wireless systems**, a combination of wired and wireless systems or any of a variety of known electronic transmission mediums.") comprising:

associating a code with at least both a desired server containing desired content and with control description data that defines at least when to start recording the desired content from the desired server (Abstract; Fig. 1, item 12 "Media Server");

storing in a code server, the code with associated control description data (Abstract; Fig. 1, item 16 "EPG Server"); and

providing, by the code server, at least the stored control description data to the wireless device to facilitate acquisition of content (Abstract "A listing of television programs is presented to a viewer ..."; Fig. 1; p. 2, paragraph 19).

3.2 Per claim 2, Colsey teaches the method of claim 1 wherein the step of providing at least the stored control description data includes the step of performing, by the wireless device, time based retrieval of the desired content in response to record start time data included in the control description data (Abstract "A listing of television programs is presented to a viewer, for example, in the form of a **grid showing television programming as a function of time.**");

p. 5, paragraph 46 “The “Timer” option instructs the STB 22 to **select this program for viewing when it starts.**”).

3.3 Regarding claim 3, Colsey discloses the method of claim 1 including the step of, from time to time, sending the code by the wireless device to the code server; and in response to receiving the code, the code server performs the step of providing the stored control description data to the wireless device (Abstract; p. 2, paragraph 19 (standard EPG operation procedure)).

3.4 Per claim 4, Colsey teaches the method of claim 1 wherein the step of storing the code with the associated control description data includes generating a server code database containing a plurality of codes each having associated control description data and publishing an online directory accessible by a plurality of subscriber wireless devices wherein the directory includes each of the plurality of codes and a description of what the code does (Fig. 1, items 16, 18, and 44; p. 2, paragraph 19).

3.5 Regarding claim 5, Colsey discloses the method of claim 3 wherein the step of providing the code is done in response to an access request by the wireless device and transparent to a user of the wireless device, obtaining, by the wireless device the desired content using the control description data (Abstract; Fig. 1; p. 2, paragraph 19).

3.6 Per claim 6, Colsey teaches the method of claim 1 wherein the control description data includes at least one of: a destination identifier for a desired content source, a record start time for the content, a record stop time for the content, and transmission protocol required to retrieve the desired content from the desired content source (Abstract “A listing of television programs is presented to a viewer, for example, in the form of a **grid showing television programming as a function of time.**”; p. 5, paragraph 46 “The “Timer” option instructs the STB 22 to **select this program for viewing when it starts.**”).

3.7 Regarding claim 7, Colsey discloses the method of claim 1 including storing user call back data with associated codes for each of a plurality of users and initiating a call back in response to control description data associated with the code (Abstract; Fig. 1; p. 2, paragraph 19 (standard EPG operating procedure)).

3.8 Per claims 8 – 17, the rejection of claims 1 – 7 under 35 USC 102(e) (paragraphs 3.1 – 3.7 above) applies fully.

### ***Response to Arguments***

4. Applicant's arguments filed 5/23/05 have been fully considered but they are not persuasive.

The response to the 131 affidavit filed 5/23/05 is above (paragraph 1).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lewis (U.S. Pat. Pub. No. 2003/0040962)

A VCR+ type system that uses a satellite data feed and "product identification data".

Lowthert et al. (U.S. Pat. Pub. No. 2002/0100043)

A VCR+ type system that incorporates a wireless broadcast mechanism and a content identifier (content id) (paragraph 30).

Agnihotri et al. (U.S. Pat. No. 6,771,885)

A VCR+ type system that utilizes a PDA, laptop, or palmtop computer and incorporates signatures associated with a broadcast program, the signature based at least in part on "a keyframe similarity measure, a color histogram or other type of feature histogram, one or more detected commercials, a transcript, a program logo or other detected object, detected text, and a sign-on or sign-off of the desired program ...".

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on 549.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KENNETH R. COULTER  
PRIMARY EXAMINER



krc